

AFFORDABLE CARE ACT OVERVIEW

The purpose of the Patient Protection and Affordable Care Act (“ACA”) is to decrease the uninsured population by increasing access to affordable health insurance. As part of this goal, the ACA has created what is known as the “individual purchase mandate”. This mandate requires almost everyone to have health insurance unless they fall into a federal exemption.

Some of the new features introduced by ACA are: guaranteed issuance and renewal of policies; banning the refusal of coverage because of a pre-existing health condition; the creation of the 10 Essential Health Benefit categories to provide a minimum floor of coverage; a new rating methodology for plans sold to individuals and small businesses; and zero cost-sharing on certain preventative services.

One major program created by the ACA is the establishment of health insurance “exchanges”, also referred to as “online marketplaces.” Hawaii’s online marketplace or exchange is known as the Hawaii Health Connector. The Hawaii Health Connector has a website that allows individuals and employers to shop and compare health plans. Individuals with an annual household income from 139% and 400% of the Federal Poverty Level may qualify for premium assistance. Note that the Federal Poverty Level for Hawaii is different from the Federal Poverty Level for Alaska and the 48 other States. Similarly, small businesses that employ fewer than 25 people may be eligible for a Small Business Tax Credit. These premium assistance programs are only available with health plans purchased through the Hawaii Health Connector.

Beginning in 2014, the ACA mandates that all U.S. citizens, U.S. nationals, Permanent Residents and lawful resident aliens have an acceptable level of health insurance, unless they are exempt under federal guidelines. People who are not exempt from the Minimum Essential Coverage requirement and who reject access to such affordable insurance will be subject to a penalty when filing 2014 tax returns starting in 2015 and thereafter.

ACA creates new requirements for individuals and small businesses. ACA compliant plans are required to base rates only on age, tobacco use and whether the insurance applicant is an individual or family. These plans are available at the same price, either on or off the Hawaii Health Connector.

Hawaii private employers (regardless of size) must recognize that the 1974 Hawaii Prepaid Health Care Act still applies even after the passage of ACA. Therefore, much of the FAQ and general information available on the federal government websites is not always correct, when applied to Hawaii employers and employees.

Recent update on “grandmothered” plans—a transitional policy for the first year

On November 14, 2013, President Obama announced that States could decide whether to allow small group and individual health insurance policies existing on Oct. 1, 2013 to be renewed for a policy year starting between January 1, 2014 and October 1, 2014. To give Hawaii consumers the most options, the State of Hawaii has allowed Hawaii health insurers to offer the renewal option.

Essentially, for 2014, Hawaii consumers have the greatest selection of choices:

1. **“Grandfathered 2010” health plans.** The federal law specifies conditions for grandfathered plans that existed in March 2010. Grandfathered health plans cannot be sold on the online marketplace or the Hawaii Health Connector. Many people will not have access to this option because their policies changed after March 2010.
2. **“Transitional renewal plans” also called “Grandmothered” health plans.** These plans must have been in existence on Oct. 1, 2013 and renewed prior to October 1, 2014. They include some but not all of the ACA features. Transitional or Grandmothered health plans cannot be sold on the online marketplace or the Hawaii Health Connector. These plans will be subject to updated premium rates. You may only apply for a renewal policy, not a newly issued policy.
3. **“Fully compliant new 2014 ACA” plans.** Non-Grandmothered plans must include all ACA features, including the 10 Essential Health Benefits. Fully ACA compliant plans will be sold on and off the Hawaii Health Connector.

Pros and Cons of Keeping Your Old Policy

Consumers may wonder whether to keep an existing Grandmothered plan or buy a plan that is fully compliant with ACA.

The quality of the coverage being provided should be considered. The ACA has a minimum floor for coverage for fully compliant new 2014 ACA plans. This floor may be better than the coverage being provided under the Grandmothered plans, particularly in the individual market.

The cost of premiums should be considered. The ACA has new rating factors which emphasize age rating. This will be more favorable for some people than others. Some people may find that the rates under the Grandmothered plans are better than new fully compliant ACA plans. For others, the opposite may be true.

In addition to the premium costs, the possibility of obtaining tax credits for the purchase of health insurance through the Hawaii Health Connector should also be taken into consideration. Note that as of December 5, 2013, the only way to obtain these premium assistance tax credits is by buying through the Hawaii Health Connector.

Consumer FAQ's

What is the individual mandate?

- The individual mandate is a provision of the ACA that requires you, your children and anyone else that you claim as a dependent on your taxes to obtain an acceptable level of health insurance ("Minimum Essential Coverage") in 2014 and thereafter. Some exemptions may apply. Beginning in 2014, if a person does not obtain a policy with Minimum Essential Coverage and is not eligible for an exemption, the person must pay a penalty.
- Generally, Minimum Essential Coverage means coverage including:
 - Government-sponsored plans (e.g., Medicare Part A, Medicaid, Children's Health Insurance Program, TRICARE, certain Veterans programs, Peace Corp program, Nonappropriated Fund Health Benefits Program)
 - Eligible Employer-sponsored plans
 - Eligible Individual plans
 - Grandfathered health plans
 - Transitional Grandmothered health plans that existed Oct. 1, 2013
 - Other coverage that qualifies as Minimum Essential Coverage
- Some exemptions may apply including:
 - Members of recognized religious sects
 - Members of health care sharing ministries
 - Exempt noncitizens (e.g., a lawful "nonresident alien" for tax purposes; anyone not lawfully present in the U.S.)
 - Incarcerated persons
 - Individuals with no affordable coverage

For the 2014 tax year, the IRS will provide more information on how to report or apply for exemptions as well as how to demonstrate compliance with Minimum Essential Coverage.

What happens if I don't get coverage?

- If you do not have the Minimum Essential Coverage and do not qualify for an exemption from the purchase mandate, you must pay a penalty to the IRS. The penalty for the first year is up to \$95/adult and \$47.50/child, or 1% of the family income, whichever is greater.
- The penalty will increase over time and in 2016 will be as much as \$695/adult, and \$347/child (up to \$2,085 for a family) or 2.5% of family income, whichever is greater.
- The amount you will owe in penalties will be pro-rated to reflect the number of months you were without coverage.

What is an “exchange” or online health insurance marketplace?

- An exchange is an entity created by ACA to help individuals and small businesses purchase health insurance coverage.
- The State of Hawaii has a State based exchange called the Hawaii Health Connector. The Hawaii Health Connector has a website to help consumers shop and compare health plans.
- The Hawaii Health Connector will also administer the health insurance premium assistance tax credits.

Am I required to purchase through the Exchange?

- No, but the tax credits for premium assistance will ONLY be available for plans sold through the Hawaii Health Connector, at least as of December 5, 2013.

How much will it cost?

- The amount that you will pay for a health plan depends on the plan you choose and the amount that you may be able to receive for federal premium assistance.
- All health plans sold “on” the Hawaii Health Connector must also be offered “off” the exchange with the same benefits at the same price.
- All small group and individual plans under ACA will have different levels of cost-sharing; these are called ‘metal levels’ and range from low to high as **bronze, silver, gold and platinum**.
- The difference between the metal levels is based on how much of the medical costs your health plan will pick up and how much you pay through copays and coinsurance. For example:

<u>Metal Level</u>	<u>Plan Pays</u>	<u>You Pay</u>
Platinum	90%	10%
Gold	80%	20%
Silver	70%	30%
Bronze	60%	40%

- Out-of-pocket costs, such as deductibles and copays, are subject to a maximum limit on out-of-pocket expenses.
- Your cost-sharing burden will differ depending on what plan is selected.
- For individuals and families with qualifying incomes, financial assistance may be available to reduce premiums and cost-sharing for plans purchased through the Hawaii Health Connector.

I have been denied coverage because I have a pre-existing condition. What will the ACA do for me?

- Coverage is already available to children with pre-existing conditions.
- Starting in 2014, insurers will be prohibited from discriminating against adults with pre-existing conditions in selling or pricing health insurance policies.

What are the Essential Health Benefits and what do they provide?

- Starting in 2014, new health plans sold in the individual and small group markets must be qualified and certified to cover ten (10) benefit categories called Essential Health Benefits (EHBs), both inside and outside of the Hawaii Health Connector.
- EHBs are not required for qualifying “transitional” plans (also called “grandmothered” plans).
- The new plans must include the ten (10) EHB categories of services listed below:
 1. Ambulatory patient services
 2. Emergency services
 3. Hospitalization
 4. Maternity and newborn care
 5. Mental health and substance use disorder services, including behavioral health treatment
 6. Prescription drugs
 7. Rehabilitative and habilitative services and devices
 8. Laboratory services
 9. Preventive and wellness services and chronic disease management
 10. Pediatric services, including oral and vision care (for children up to 19 years of age).

The EHBs must also:

- Reflect typical employer health benefit plans
- Comply with Mental Health Parity and Addiction Equity Act of 2008
- Balance comprehensiveness and affordability for those purchasing coverage
- Starting with plan years or policy years that began on or after September 23, 2010, health plans can no longer impose a lifetime dollar limit on spending for these services.

I am eligible for Medicaid – do I have to go on a Medicaid plan?

- You may always refuse coverage of a Medicaid plan and purchase a commercially available plan. However, if you refuse Medicaid coverage, you will not be eligible for federally funded premium assistance programs.

Hawaii Employers – FAQs

EMPLOYER FAQs – from Hawaii Department of Labor and Industrial Relations Dec. 4, 2013

◆ **Who is required to provide health care insurance coverage?**

All employers with one or more employees, whether full-time or part-time, permanent or temporary, are required to provide Prepaid Health Care Act coverage to their eligible employees in Hawaii unless the employees fall into an excluded category.

◆ **Who is excluded from health care insurance coverage?**

Individuals working less than twenty hours per week, agricultural seasonal workers, insurance or real estate salespersons paid solely by commission, individuals working for family members (son, daughter, spouse) or children under 21 working for their mother or father.

◆ **How does an employer provide health insurance coverage?**

Employers may purchase an approved health care plan from a health care contractor, a Hawaii licensed insurance carrier, or from the Hawaii Health Connector. Alternatively, employers may also pay for their employees to purchase a health insurance plan from the Hawaii Health Connector. {Note: employers may adopt an approved self-insured plan, which requires audit information and bonding.}

◆ **How much of the premium does the employer have to pay on behalf on an employee?**

At least one-half of the premium as long as the employee contributes no more than 1.5% of their wages towards the premium.

◆ **Are there tax credits for providing employees health insurance?**

Yes, small employers with fewer than 25 full-time equivalent employees and pay an average wage of less than \$50,000 a year may be eligible for a tax credit to offset the cost of health insurance premiums for employees. Under state law, certain employers may also be eligible for premium supplementation.

◆ **What is the amount of the tax credit for employers?**

A credit up to 35% of premium cost is available until the end of 2013. The credit increases to 50% starting on January 1, 2014 as long as the health insurance is procured through the Hawaii Health Connector.

♦ **Are employers required to provide family coverage under the PHCA or ACA?**

No, however, depending on the type of plan offered by the employer – employers may offer family coverage and either the employee pays 100% or 50% of the family premium.

EMPLOYEE FAQs – from Hawaii Department of Labor and Industrial Relations Dec. 4, 2013

♦ **Who is eligible for health benefits through an employer?**

Individuals that work twenty or more hours a week for four consecutive weeks and earn at least \$628 a month are deemed eligible for health insurance coverage by their employer.

♦ **When does the health care coverage begin?**

Employees must be provided with health insurance at the earliest enrollment date of your employer's health care contractor, which is usually the first of the month following the month during which you met the eligibility criteria.

♦ **If I have two or more jobs – which employer is supposed to provide health insurance?**

You are required to designate the principal and secondary employer and file notification (Form HC-5) with your employers who, in turn, will file the notification with the Department of Labor and Industrial Relations (DLIR). The principal employer shall be the employer who pays you the most wages (there are exceptions); the designated principal employer is required to provide coverage pursuant to the law. Your determination of principal employer is binding for one year or until change of employment occurs. Whenever you elect to make a change with respect to the status of each, notification (Form HC-5) must be filed.

♦ **Are there any exemptions from being covered by an employer?**

Yes, individuals can elect to be exempt from coverage under an employer's health care plan if:

- You are covered by a federally established health insurance or prepaid health care plan, such as Medicare, Medicaid or medical care benefits provided for military dependents and military retirees and their dependents;
- You are covered as a dependent under a qualified health care plan;
- You are a recipient of public assistance or covered by a State-Legislated health care plan governing medical assistance; or
- You are a follower of a religious group that depends upon prayer or other spiritual means for healing.

Hawaii Small Employer/Small Business FAQ's

What is the new Small Business Tax Credit for providing health coverage?

- A Small Business Tax Credit (SBTC) may be available to Small Employers with 25 or fewer full-time equivalent employees, with an average annual salary of less than \$50,000 (adjusted for inflation). The employer must pay at least 50% in a uniform contribution of the total premium cost of the health coverage for the employee (not family).
- As of this writing, in order to get tax credits for the 2014 tax years, those health plans must be purchased on the Hawaii Health Connector.
 - For Private, For-profit Small Employers.
 - From 2010-2013, private, for-profit Small Employers may be eligible for a tax credit up to 35%. Even if you have not filed for the tax credits for 2010, 2011 or 2012, you may be able to file retroactively.
 - From 2014, private, for-profit Small Employers may be eligible for a tax credit that goes up to 50% for up to 2 years.
 - For Tax Exempt Small Employers.
 - From 2010-2013, tax exempt Small Employers may be eligible for a maximum tax credit of up to 25%
 - From 2014, tax exempt Small Employers may be eligible for a maximum tax credit of up to 35%.

For more information and forms, see the Internal Revenue Service (IRS) at <http://www.irs.gov/uac/Small-Business-Health-Care-Tax-Credit-for-Small-Employers>

I am self-employed or a sole proprietor - Will the new law impact my health insurance choices?

- If you are self-employed without employees, you are NOT considered an employer, and must purchase an individual policy inside or outside the Connector.

How to determine if you are “self-employed”:

- If you operate an income-generating business with zero employees, then you are considered self-employed (not an employer).
- If you have employees (generally whose income you report on a W-2 at the end of the year), who are NOT a spouse or family member you ARE considered an employer, in which case you could get coverage for yourself and your employees through the SHOP Marketplace.

Do I have to comply with Prepaid Health Care Act? Can I tell my employees to purchase through the Hawaii Health Connector and subsidize the difference?

- Yes, all Hawaii small employers MUST still comply with the Prepaid Health Care Act.
- No, Hawaii small employers CANNOT incentivize employees to purchase through the Hawaii Health Connector with reimbursements.

What is a “Full-time Equivalent” Employee?

- In Hawaii, under Prepaid Health Care Act, it is important to note a full-time employee is anyone who works 20 or more hours a week for four consecutive weeks.
- The federal ACA law defines full-time employees differently. Under ACA, a full-time employee is anyone who works 30 or more hours a week. Note that there are complexities involved in calculating full-time employees under federal regulations.

Do I have to purchase through the Connector?

- No, but eligibility for the Small Business Tax Credit will only be applied to those who purchase their plans through the Hawaii Health Connector.

What are Essential Health Benefits (EHBs) and what do they provide?

- Starting in 2014, new health plans sold in the individual and small group markets must cover ten benefit categories called Essential Health Benefits (EHB), both inside and outside of the Hawaii Health Connector.
- EHBs are not required for qualifying “transitional” plans (also called “grandmothered” plans).
- The EHB plan must include ten (10) specific categories of services listed below:
 1. Ambulatory patient services
 2. Emergency services
 3. Hospitalization
 4. Maternity and newborn care
 5. Mental health and substance use disorder services, including behavioral health treatment
 6. Prescription drugs
 7. Rehabilitative and habilitative services and devices
 8. Laboratory services
 9. Preventive and wellness services and chronic disease management
 10. Pediatric services, including oral and vision care

The EHBs must also:

- Reflect typical employer health benefit plans
- Comply with Mental Health Parity and Addiction Equity Act of 2008
- Balance comprehensiveness and affordability for those purchasing coverage

- Starting with plan years or policy years that began on or after September 23, 2010, health plans can no longer impose a lifetime dollar limit on spending for these services.

How is a small employer/small business defined?

- For 2014 and 2015, Hawaii defines a small employer/small business as one with 50 or fewer full-time employees.
- In 2016, ACA provides that the definition will change to 100 employees or less.

Do I have to cover my employee's family?

- No, the ACA does NOT require an employer to sponsor family coverage.

What are the penalties if I do NOT cover my employees?

- All current requirements and penalties for the Prepaid Health Care Act apply. Large employers are also subject to a penalty under ACA.

Can I offer insurance to my non-Prepaid Health Care Act Employees?

- Yes, insurance offered to non-Prepaid Health Care Act eligible employees do NOT have to comply with the Prepaid Health Care Act standards.
- Generally, employers are never precluded or never prohibited from offering additionally any health benefits to lawfully authorized workers similarly situated who are not legally entitled to coverage under the Prepaid Health Care Act. Example: migrant workers, real estate agents, certain other kinds of workers.

Hawaii Large Employer/Large Business FAQ's

Will my plan be subject to the new reforms?

Some of the reforms introduced by ACA are not applicable to plans sold in the large group market. For example, the new rating factors (e.g., age, tobacco, and whether individual or family members) and the 10 essential health benefits are not required of large group health plans.

Will my plan be required to contain all 10 Essential Health Benefits?

No. Plans sold in the large group market do not need to include the 10 EHBs.

However, plans sold in the large group market are still subject to the requirements imposed by the Hawaii Prepaid Health Care Act.

How is a large employer/large business defined?

In Hawaii, a large business is any business that employs 51 or more full-time equivalent employees. In 2016, this definition will change to any business that employs 101 or more full-time equivalent employees.

Can I purchase insurance on the Hawaii Health Connector?

No, for the time being only Hawaii small business and individuals may purchase insurance through the Hawaii Health Connector. The Hawaii Legislature has the option of including large businesses in the Hawaii Health Connector for 2016 and thereafter.

Do I have to offer insurance to my employees?

Yes. Under both ACA and the Prepaid Health Care Act, large employers must offer affordable health insurance to their employees.

What's the difference between a full-time employee and a full-time "equivalent" employee?

- Under the ACA, a full-time employee is anyone who works 30 or more hours a week. In Hawaii, under the Prepaid Health Care Act, a full-time employee is anyone who works 20 or more hours a week for four consecutive weeks.
- The ACA uses the term full-time employee but then expands on the definition to include both full- and part-time employees. Note that there are complexities involved in calculating full-time employees under federal regulations.

Senior Citizen FAQ's

I currently have a Medicare Advantage plan. Will I be able to keep it?

Yes, the ACA does not require individuals to drop their Medicare Advantage coverage.

Do Medicare participants need to use the Hawaii Health Connector?

No, Medicare is not part of the Hawaii Health Connector. Seniors will still get health coverage through Medicare's traditional fee-for-service program or Medicare Advantage plans, private health insurance plans that are approved by Medicare.

Will my Medicare benefits be cut under the new law?

No, the ACA does not eliminate or reduce benefits provided under Medicare. The cuts under ACA to Medicare were to the funding of the program.

My prescription drug costs push me into the "doughnut hole" every year; will I receive any relief under the new law?

Seniors who reach the gap in prescription drug coverage known as the "doughnut hole" will receive a \$250 rebate in 2010. Beginning in 2011, those in the "doughnut hole" will receive a 50% discount on prescription drugs and the gap will be phased out until it is eliminated in 2020.

I have a Medicare Supplement (Medigap) plan, do I need to make any changes to my plan under the new law?

No, ACA does not require seniors to change their Medigap coverage. However, the law will be adding cost-sharing requirements to plans C and F that are sold after Jan. 1, 2015.

Anti-Fraud Alert: Beware of Health Care Reform Scams

Hawaii's Department of Commerce & Consumer Affairs (DCCA) alerts consumers about potential scams that aim to use the recent passage of health care reform to defraud the public. DCCA wants consumers to be safe from being taken advantage by such scams.

Generally, insurance companies will market the availability of their health plans, but usually do not actively solicit sales by phone or at your door. If a stranger initiates contact with you and seeks to sell you health insurance, you should be wary. In addition, when using websites it is important to try to verify that the website is an official site or at least a reliable source of information. Some scammers will use fake websites to try to obtain your personal information or otherwise get money from you.

Do not be pressured to buy an insurance policy or other financial product that you don't understand or from someone who says you must act immediately. Take time to do some research and check out the facts.

The Hawaii DCCA licenses and regulates insurance carriers and producers in Hawaii. If you think you have been defrauded you can contact the DCCA Insurance Health Branch at (808) 586-2804.

See more on protecting yourself from fraud in the Healthcare fraud at www.healthcare.gov including: <http://marketplace.cms.gov/getofficialresources/publications-and-articles/protect-yourself-from-fraud-in-health-insurance-marketplace.pdf>

Additional Resources

- U.S. Department of Health and Human Services/Centers for Medicare & Medicaid Services: 1-800-318-2596 <http://www.healthcare.gov>
- State of Hawaii Department of Commerce & Consumer Affairs, Health Branch, Insurance Division: (808) 568-2804 or visit <http://cca.hawaii.gov/ins>
- State of Hawaii Department of Human Services (DHS), Medicaid: <http://mybenefits.hawaii.gov>
- State of Hawaii Department of Labor and Industrial Relations (DLIR), Prepaid Healthcare: (808) 586-9188 or dlir.prepaidhealthcare@hawaii.gov
- Hawaii Health Connector Call Center: 1-877-628-5076 or <http://www.hawaiihealthconnector.com>